

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NICHOLAS FRITSCH,

Plaintiff,

v.

C.O. JOE, et al.

ORDER

Case No. 23-cv-803-jdp

Defendants.

On November 22, 2023, I entered an order assessing plaintiff Nicholas Fritsch an initial partial payment of \$0.10 in this case. Now plaintiff has filed a letter asking to waive the initial partial filing fee. Dkt. 5. I will deny the motion without prejudice for the following reasons:

In 28 U.S.C. § 1915(b)(1), Congress established a formula to determine the filing fee for a federal civil action or appeal by a prisoner seeking leave to proceed *in forma pauperis*. The statute says, “The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of — (A) the average monthly deposits to the prisoner’s account; or (B) the average monthly balance in the prisoner’s account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.”

In calculating the initial partial payment in this case, I used the trust fund account statement that plaintiff submitted on November 22, 2023. I determined that his average monthly deposits were \$0.51. Twenty percent of \$0.51 is \$0.10. I will deny plaintiff’s motion to waive the initial partial filing fee without prejudice, and I will give plaintiff an extension of time until January 19, 2024, to submit the \$0.10 initial partial payment.

ORDER

IT IS ORDERED that:

1. Plaintiff Nicholas Fritsch's motion to waive the initial partial filing fee is DENIED without prejudice.
2. Plaintiff may have an extension of time until January 19, 2024, to submit a check or money order payable to the clerk of court in the amount of \$0.10, or to submit an updated inmate account statement or other documentation that shows how his financial situation has changed.
3. If plaintiff fails to make the initial partial payment by January 19, 2024, or fails to show cause why the payment could not be made, then I will assume that plaintiff wishes to withdraw this case voluntarily. In that event, the case will be dismissed without prejudice to plaintiff refiling at a later date.

Entered this 21st day of December, 2023.

BY THE COURT:

/s/

ANDREW R. WISEMAN
United States Magistrate Judge